

## **EXHIBIT B**

0534 RO 0156

## AFFIDAVIT

Describe in detail the most recent incidents of abuse. The Judge requires as much information as possible, such as what happened, each person's actions, the dates, locations, any injuries, and any medical or other services sought. Also describe any history of abuse, with as much of the above detail as possible.

On or about March 27, 2005, the Defendant Heather Kiernan, called my cell phone/house phone repeatedly to the total of 16 times at 5AM. At 7:30AM, Heather came to 9 Leroy St. with Christine Parrot (an admitted drug user) and Heather proceeded to pound on the door to the where both my son and I reside. She left in the vehicle driven by Christine Parrot of 20 Hood St, Attleboro, MA and then came back at 8AM and proceeded to pound on the door again. Heather has an admitted crack cocaine addiction and has decided to live in Pawtucket with another crack cocaine user, Lori Johnson. Heather is emotionally unstable and was hospitalized at Arbour Fuller Hospital for her crack cocaine addiction and bipolar disorder on 12/13/04. She has exposed my son to drug activity at Her New residence of 118 Sweet in Pawtucket, RI. There is an open investigation with DCYF in RI against Both Lori Johnson and Heather Kiernan at the 118 Sweet Street location. Prior to Heather's first admission to Arbour Fuller, she came to 9 Leroy on 12/13/05 at 4AM, was physically abusive to me but agreed to treatment. That incident caused bruising to my arm. Heather has now refused any treatment and I fear that she will cause me physical harm and subject my son to neglect and harm. The investigation in RI by DCYF alleges that Heather and Lori did drugs and sold drugs in the presence of my son. I fear that she will continue to put my son and myself in harmful situations.

ATTEST  
 [Signature]  
 CLERK/MAGISTRATE

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I declare under penalty of perjury that all statements of fact made above, and in any additional pages attached, are true.

DATE SIGNED

3/28/05

PLAINTIFF'S SIGNATURE

X

John Kiernan

PRINTED NAME OF WITNESS

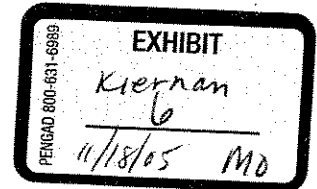
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WITNESSED BY

TITLE/RANK OF WITNESS

CHILD NAMED:

Matthew John Kiernan  
D.O.B. 2/22/01  
47 Juniper Road, Apt. B-3  
North Attleboro, MA 02760



Current whereabouts of Matthew Kiernan are unknown. Matthew Kiernan was last seen with his mother, Heather Kiernan.

PARENTS OF CHILD NAMED

John Peter Kiernan  
D.O.B. 11/19/70  
47 Juniper Road, Apt B-3  
North Attleboro, MA 02760  
(508)-695-4773

Heather Lynne Kiernan  
D.O.B. ,8/4/78

Possible Addresses:

69 North Avenue  
Attleboro, MA 02703  
508-226-7710

20 Hood Street  
Attleboro, MA 02703

17 East Hodges St.  
Norton, MA  
(Residence of aunt, Deborah Demers)

AFFIDAVIT

I, John Peter Kiernan, upon information and belief, take oath and say:

1. I am Matthew John Kiernan's biological father and I live at 47 Juniper Road in North Attleboro, Massachusetts.

I ask the court to grant my request for an ~~Ex Parte Motion for~~ immediate temporary order for custody of my son, Matthew Kiernan based upon the information that is provided within my Affidavit.

Approximately one month before I was married to my wife, Heather Kiernan, she had a miscarriage. Since that time and after our marriage on October 30, 1999, I have seen my wife continue to exercise poor judgment and become more emotionally unstable. My wife began to exhibit a pattern of staying out past midnight (in some instances as late as 6AM or not coming home at all) and lying to me about her whereabouts and other issues. Shortly after our marriage, Heather began a job at a security company. On one occasion, Heather did not show up for her job and did not return home. The following day I took a day off work and contacted her father, who subsequently called the North Attleboro police in the hope that they might find her. Heather returned later in the day after being missing for over 24 hours. She never offered a satisfactory explanation as to her whereabouts. During the first few months of our marriage, Heather admitted to using marijuana and associating with friends she considered heavy drug users. She also exhibited signs of depression and exhibited a violent temper; she would scream violently if she did not get her way in all things. I asked my wife to begin to see a counselor. She refused, and promised that she would try harder not to make poor decisions and not to lie. By December 1999, Heather no longer worked for the security company. It was unclear as to why she left. Heather is a high school graduate and has no significant job skills or professional education. She quit college after 12 months and has refused to go back to school. She has worked a number of jobs, always leaving soon after she has been hired; she often has been forced to leave jobs under mysterious or suspicious circumstances. Heather has been often unwilling to explain the circumstances of these terminations to me.

On March 3, 2000, my wife and I moved to 47 Juniper Road in North Attleboro, Massachusetts. Heather had worked and quit two jobs before our moving to 47 Juniper Road. Heather began working as a maid for a home cleaning service. She held this job for approximately 3 months.

In June of 2000, my wife became pregnant. During the pregnancy, Heather continued to stay out late at night and exhibit poor judgment. Heather continued to stay out until 3AM on numerous occasions giving little or no explanation as to where she was or why she chose to stay out so late without even thinking to call her husband.

By August of 2000, my wife began a job at a local stationary store. After two weeks of part-time employment, she left to work for a local pharmacy in the same shopping plaza. She worked at the pharmacy for approximately 3 months and was "let go" for reasons that remain unclear.

By November of 2000, my wife began working for a local dry cleaning business in the same plaza as the pharmacy and the stationary store. She took this job against my advice; I was concerned about her working at a dry cleaner's due to the obvious dangers of exposing and unborn child to the chemicals associated with the dry cleaning industry. While Heather was pregnant working at the dry cleaning business, my sister witnessed Heather smoking outside of the establishment. At 7 months into her pregnancy, Heather Kiernan was arrested in December 2000 for felony grand larceny from the dry cleaning business. She tried to lie to me about the incident, but she has since recanted her lie,

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admitting to me that she stole money from the establishment. I have since viewed a police report containing her signed confession to stealing over \$300 and as much as \$1200 between her and a juvenile coworker.

On February 22, 2001, our son, Matthew John Kiernan was born. It was the happiest day of my life and I hoped it would be a new beginning for my family. Heather attempted to breast feed Matthew. This lasted only one month. I was concerned that Heather's refusal to stop eating junk food and her continuing to drink copious amounts of caffeinated Pepsi Cola would affect the child's nutrition and overall health; she refused to alter her diet. My wife's selfish refusal to change her eating habits was causing the baby to suffer an adverse reaction to her breast milk. Matthew was suffering serious digestive problems and was inconsolable at times. Frustrated by my wife's refusal to alter her unhealthy lifestyle, I began to advocate a switch to formula. Heather did not argue or offer to change her habits but quickly agreed to abandon breast feeding in favor of formula. Matthew's digestive distress quickly ended after he was no longer subjected to breast feeding. I was happy that we started to feed Matthew formula because I feared whatever my wife was doing outside our home might have an adverse effect on Matthew.

On May 10, a purchase of \$51.06 was made using our ATM card at a Shaws supermarket in Rhode Island. Heather denied making the purchase, and our bank began an investigation. Heather told me that she signed an affidavit swearing that she did not make the purchase; I have since learned that Heather never signed the affidavit.

Two weeks after Matthew's birth, I was laid off from my job at a Software company. Heather said she would try to go back to work to help the family while I looked for work. In late March 2001, Heather began to work for a local armored car service as a data entry clerk. Heather worked for this company until May 19, 2001. From the time of Matthew's birth through July 23, 2001, I have been with him every day and have been his primary caretaker. On July 23<sup>rd</sup> I began a new position with the Massachusetts Division of Employment and Training, where I currently continue to work. During the time I remained home as a stay at home father, Heather again began to exhibit a pattern of lying and refusing to spend more time at home. On May 18<sup>th</sup>, I found an email sent by my wife to a male coworker; it lead me to believe that if Heather was not currently engaged in an adulterous affair with another man, she had preparing to do so:

hi what happened all of a sudden poof you were gone :( that's okay you were probably tired anyway.....hope you are dreaming of me:) i will dream of you k? so how much do you really like me? and in your e-mail you said it's hard to say what's in your heart well you can with me....and i think then i will too. and yes i really would like you to wear your vest...it would kill me if you got hurt :( well sweet dreams and i hope your shoulder is feeling at least a little better.  
heather

On the night of May 18<sup>th</sup>, my wife was allegedly sexually assaulted at work. She arrived home at 11pm. I called the police and transported Heather to the hospital for

examination. Heather made conflicting reports to me and to the police as to what she did after the incident took place. After spending the night at the hospital with my wife, I was told that the rape took place between 5 and 6pm and that she left the building by 8pm. According to Heather's final version of the story, after the alleged incident she left work and went to a male coworker's house (the same coworkers who received the above email) instead of coming home to her husband and infant, going to the police to report the crime, or going to her parents home (which is less than 500 yards from the company). I learned that at the coworker's house, he and Heather drank wine.

Heather's emotional state continued to become very concerning to me. Her temper became more violent; she often screamed at me in front of the baby, who would cry due to the loud noise and disruption. She finally agreed to see a counselor. I began to see a counselor as well in the hope that counseling would assist me in living with Heather who, to me, seems like a time bomb waiting to explode.

Heather's mother did not speak with her and was unsupportive for more than two weeks after the incident. I had difficulty with this, as did Heather. I asked her mother why she was so unsupportive; she told me that Heather had lied so many times throughout her life that she did not know what to believe anymore.

The alleged perpetrator in the rape incident was released on bail shortly after his arraignment. Despite this, my wife continued to go out at night. She became increasingly irritable and was verbally and at times physically abusive towards me in the presence of our son, Matthew.

On May 31, 2001 my wife went out to see a friend in Pawtucket, RI. I stayed with our son Matthew and fell asleep before my wife came home. At about 1AM, my wife shook me awake. She told me that at about midnight she prepared to come home from her friend's home. She stated that when she approached my car, she discovered that there was human feces and paper smeared all over the windshield. She did not call the police.

The following day I took our family to a park in North Attleboro. While at the park, Heather noticed a significant dent on the right lower panel near the windshield. There was also a dent in the roof. These were marks from the previous night's alleged act of vandalism. We went home and I called Detective John Otrando, who was the lead detective on the rape case, to let him know about the vandalism. I left a message with Detective Otrando. I also called the Pawtucket police department. They said we could come down to the station if we wanted to file a report.

During the last weeks of May and the first weeks of June, Heather has gone out to visit friends almost every night, arriving home late, sometimes as late as 4AM. She seems to prefer the company of her friends to the company of her child.

Heather has admitted to having lesbian affairs with two of her friends. On one occasion I made observations which lead me to believe that she has been engaging in sexual relations with her female friends.

Throughout these ordeals, my wife continued to admit that she smokes marijuana when she goes out with her friends at night. On June 14, Heather told me to she wanted to go over to her friend Kelly's home to watch a movie. I asked her if she was going to smoke marijuana. She said, "Yes, it helps me." That night, Heather did not come home until 2AM. When she came through the door, she said, "I'm sorry, I fell asleep on Kelly's couch." In spite of being married and the mother of a four month old infant, Heather continues to make bad decisions, use drugs, lie, and abandon the baby for extended periods of time.

One June 13, 2001, Heather and I left Matthew at my sister's house while we attended a Red Sox game. During the game, I called my sister to ask how Matthew was. During the game, Heather never mentioned the baby and was not worried about his welfare. When we returned to my sister's, Heather did not immediately seek out the baby, but appeared to be indifferent. My sister and her husband were both shocked that Heather did not call during the game and that she did not seek out the baby immediately upon our return to their home.

One night when Heather was out, my sister Felicia called her to ask her to return home. Heather told Felicia that she had been with Matthew for the day and that now it was my (John's) turn to watch him. She also told Felicia that she needed to be with her friend at that time. She said that I (John) was being "mean" and that she needed time to think.

On June 18<sup>th</sup>, my wife became increasing argumentative with me. She yelled and swore at me. I asked her to keep her voice down as the baby trying to sleep in the other room. She said that she would leave for the night. She continued to insult me and argue about anything and everything. I told her that I will not continue the conversation if she didn't keep her voice down. She screamed in my face and put her finger in my face. She calmed down after ranting for fifteen to twenty minutes and ends up leaving at about 8:30pm.

On June 19, 2001 at about 5:45AM my wife returned from her night away from home. I told my wife that I was going to help a friend to paint a house. I said I would be back so I could give her use of the car so she could go to a previously scheduled counseling session.

Later that morning, I received a call from Heather. She said that she did not need me to give her the car for the counseling meeting she had scheduled at 2pm. She said that her mother was taking her. I asked her who would watch Matthew while she was away. She said that she was going to take him with her and that her mother was driving her to her appointment. She said she would talk to me later and hung up.

I returned home at about 12:30pm. I discovered that my wife took all the baby formula (over a one month supply), most of the diapers, both diaper bags and some clothing and possessions. On the marker board calendar in our apartment she wrote in big words "John Hate" and "John hates his wife, she loves." My wife or son did not return home.

The following day I went to our bank. I was informed that my wife withdrew \$300 on 6/19/01 and then another \$275 on 6/20/01. I also found out from a Citizen's Bank representative, that Heather never signed an affidavit as she claimed for an alleged fraudulent purchase on 5/10/01. Later in the day, I filed a missing person's report with the North Attleboro police concerning my wife and son. I was informed that Heather was staying in a battered women's shelter with our four-month old son. Heather is not a battered woman and I did not force her to leave our apartment; she can return any time.

After 9 days of worry and despair (June 28, 2001) over my missing wife and son, Heather called from a shelter in Pawtucket, Rhode Island. She was upset and said she was sorry for what she had done to me. She said that she was wrong in going to the shelter. She said she wanted to come home to me. She said she noticed a difference in our son from being away from his father for the 9 days. She said he did not sleep well during her stay at the shelter. Heather went on to explain that she hated the shelter because she had to be in by 9PM and that there were some "scarey" people in the shelter.

In attempt to salvage our marriage and our new family of three, Heather and I went to marriage counseling. The counselor confronted Heather with the all of the things that had been destroying our marriage. She said she would try and make improvements especially in the area of communication. She said she would stop swearing and yelling at me. She said she would stop hitting me. Things began to improve as I began a new job in July. Heather watched Matthew while I was at work, but when I came home from work, Heather continued to insist on going out and she would stay out late.

In September 2001, Heather found part-time employment as a home health aide for a disabled man. Heather was unable to give me a clear understanding as to what her work schedule was. She would leave when I came home from work and would not return until midnight. This was true for the first week of her employment. The second week she would not return home until 2AM. I asked her to call home if she had to work late. Heather never did. Heather said she could not supply me with a work telephone number either. I told her that I needed to contact her in case of an emergency. She continued to refuse to supply me with a number. I supplied Heather with a mobile phone to assist her. On nights when she did not come home at midnight and I attempted to call her, she would not answer the mobile phone. On Friday, September 14<sup>th</sup>, Heather left for work once again. Once again she did not call to say she would be late. She said that she would try and come home early. Heather did not return home until 3:30AM Saturday morning. Not only did she not supply a good reason for her late return, she could not supply a pay stub to prove that she had been working for the past two weeks.

Throughout the course of our marriage, Heather has abused marijuana. She has also been unable and/or unwilling to hold down a job for any length of time. She routinely abandoned her infant son in favor of her friends, with whom she drinks and smokes marijuana. She has also carried on two lesbian affairs during our marriage which she

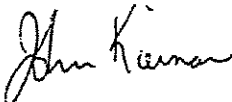
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admitted to me. Heather's emotional state is extremely volatile and I fear that her inability to manage her anger may cause her to hurt our infant son Matthew. She is not receiving adequate familial support and I am not confident that her friends can offer the support she needs to have to take care of Matthew twenty-four hours a day. During the ~~First~~ four months Matthew has been alive, Heather has often displayed indifference to the child. She has been carrying on with life as if she is not a mother of an infant (or a married woman) but rather a single woman out to have a number of relationships. While we were parenting as partners, Heather did not display a high level of parenting skills; I believe that she does not have the emotional stability to be a successful single parent. Her violent temper and drug abuse cause me to feel extreme fear that she will hurt our son. If she continues her pattern of insisting on going out every night, who will watch the baby? I shudder at the thought of her leaving Matthew with one of her drug-abusing friends, and I believe that her mother and father are unwilling to raise another child. Heather's mother and father currently have two children under fifteen, one of whom has serious emotional and behavioral issues; I would not leave Matthew alone with this child. Heather's criminal record and lack of social and job skills will make it hard for her to find any kind of job. Heather's current emotional state and immaturity, coupled with her drug use, make her unable to be a proper guardian to our son at this time.

For all the reasons enumerated above,

Continuation in Heather Kiernan's current residence without access or visitation allowed with his father is contrary to the welfare of the child's emotional growth and development. I respectfully request the court to consider this motion for a temporary order of custody of Matthew John Kiernan to his father, John Kiernan.

Signed under the pains and penalties of perjury this 19th day of September, 2001.

  
John Kiernan

## AFFIDAVIT

Describe in detail the most recent incidents of abuse. The Judge requires as much information as possible, such as what happened, each person's actions, the dates, locations, any injuries, and any medical or other services sought. Also describe any history of abuse, with as much of the above detail as possible.

On or about

8/8/01

2001

the Defendant

Began to argue loudly with me. She was shouting and swearing at me as I held our son, Matthew. I tried to get away from my wife but she proceeded to follow me into the bedroom. I attempted to change our son's diaper while my wife continued to verbally shout swears at me. While changing my son's diaper, Heather began to push me. I asked her to stop and leave the room as she was causing emotional harm to our son and emotional and physical harm to me. I tried to shut the door to the bedroom, but Heather came at me and clenched my chest until it bled. I continued to keep one hand on my son as he was on the changing table. I pushed Heather off of me at that point. I tended to our son. Heather continued to exhibit a breakdown of emotions. I stayed away from her and put my son to bed shortly after the incident. I also tended to my lacerations in the bathroom. I still have scars from the incident. Most recently 9/16/01, Heather abandoned our home after swearing and verbally ~~attacking~~ attacking me. Our son was in his crib sleeping. She woke him up. I asked her to calm down. She said that - "You are done." "I'm going to get you" "It's all done." She left the home supposedly with her father.

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I declare under penalty of perjury that all statements of fact made above, and in any additional pages, are true and correct.

DATE SIGNED

9/19/01

PLAINTIFF'S SIGNATURE

x

John Korman

TRUE COPY ATTEST

ASST CLERK/MAGISTRATE

WITNESSED BY

PRINTED NAME OF WITNESS

TITLE/RANK OF WITNESS

x

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